SUBCONTRACT LABOR & MATERIALS BOND

That WEBSTER GRADING, INC., DBA RUD EXCAVATING OF WEBSTER, P.O. BOX 85, WEBSTER, as Principal, hereinafter called Principal, and UNITED FIRE & GASUALTY COMPANY, 118 SECOND AVE SE, GEDAR RAPIDS, IA 52407 a corporation organized and exist under the laws of the State of TOWA as Surety, are held and firmly bound to G.S. MCGROSSAN CONSTRUCTION, INC., P.O. BOX 1240, MAPLE GROVE, MN 55311-6240 as Obligee, for the use and benefit of claimants as hereinbelow defined, in the amount of TWELVE MILLION SHUNDRED EIGHTY THOUSAND SIX HUNDRED EIGHTY TWO AND 91/100 Dollars (\$12,680,682.91) for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, success and assigns, jointly and severally, firmly by these presents. WHEREAS, Principal has by written agreement dated JULY 13, 2008 entered into a subcontract with Obligee for WASECA COUNTY T.B. 13 AND T.B. 14, S.P. 8101-44 in accordance with drawings and specifications prepared by MINNESOTA DEFT. OF TRANSPORTATION , which subcontract is by reference made a phereof, and is hereinafter referred to as the subcontract. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal sh promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonal required for use in the performance of the subcontract, then this obligation shall be void; otherwise it she remain in full force and effect, subject, however, to the following conditions: (1) A claimant is defined as one having a direct contract with the Principal for labor, material, both, used or reasonably required for use in the performance of the contract, labor and material being contract.
AVE SE, CEDAR RAPIDS, IA 52407 a corporation organized and exis under the laws of the State of 10WA G.S. MCGROSSAN CONSTRUCTION, INC., P.O. BOX 1240, MAPLE GROVE, MN 55311-6240 as Obligee, hereinafter called Principal and Surety as hereinafter of the use and benefit of claimants as hereinbelow defined, in the amount of TWELVE MILLION SHUNDRED EIGHTY THOUSAND SIX HUNDRED EIGHTY TWO AND 91/100 Dollars (\$12,680,682.91) for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, success and assigns, jointly and severally, firmly by these presents. WHEREAS, Principal has by written agreement dated JULY 13, 2008 entered into a subcontract with Obligee for WASECA COUNTY T.H. 13 AND T.H. 14, S.P. 8101-44 in accordance with drawings and specifications prepared by MINNESOTA DEPT. OF TRANSPORTATION which subcontract is by reference made a phereof, and is hereinafter referred to as the subcontract. NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal sh promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonal required for use in the performance of the subcontract, then this obligation shall be void; otherwise it sh remain in full force and effect, subject, however, to the following conditions: (1) A claimant is defined as one having a direct contract with the Principal for labor, material, both, used or reasonably required for use in the performance of the contract labor, material, both, used or reasonably required for use in the performance of the contract labor, material, both, used or reasonably required for use in the performance of the contract labor, material, both, used or reasonably required for use in the performance of the contract labor, material, both, used or reasonably required for use in the performance of the contract labor, material, both, used or reasonably required for use in the performance of the contract labor and material used or reasonably required for use in the performance
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both, used or reasonably required for use in the performance of the contract labor, material,
being construed to include that part of water, gas, power, light, heat, oil, gasoline, telepho service or rental of equipment directly applicable to the subcontract.
(2) The above-named Principal and Surety hereby jointly and severally agree with the Obligee the every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done performed, or materials were furnished by such claimant, may sue on this bond for the use such claimant, prosecute the suit to final judgment for such sum or sums as may be justly delaimant, and have execution thereon. The Obligee shall not be liable for the payment of an costs or expenses of any such suit.
(3) No suit or action shall be commenced hereunder by any claimant,
(a) After the expiration of one (1) year following the date on which Principal ceased wor on said subcontract it being understood, however, that if any limitation embodied in this bond prohibited by any law controlling the constitution hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.
(b) Other than in a state court of competent jurisdiction in and for the county or othe political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated and not elsewhere.
(4) The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder.
gned and sealed this 18TH day of JULY A.D., 20 08
WEBSTER GRADING, INC., DBA RUD EXCAVATING OF WEBSTER
De By Crax
UNITED FIRE & CASUALTY COMPANY
Doid E Sell By Melini M. Crowling
MELISSA M. NORDIN, ATTORNEY-IN-FACT

MN 55088

E			
		SURETY	ACKNOWLEDGMENT
	MINNESOTA,	}	
COUNTY	OF Hennepin	} ss.	
,On	this 18th	day of July	, 2008 , before me appeare
Melissa M.	Nordin		, solver in appraise
to me person	nally known, who, being	duly sworn, did say that he	is the Attorney-in-Fact of the United Fire & Casualty Company
that the seal of said corpc instrument to	o be the free act and deed	of said corporation.	seal of said corporation; that said instrument was signed and sealed on behalf id Melissa M. Nordin acknowledged said
\$	TAINING TAINING	SOTA mires Jen. \$1, 2010	Dolley Smith
3	William My Commission		Notary Public, Hennepin County, Minn.
			My commission expires
		ACKNOWI FI	OGMENT OF PRINCIPAL
	na ,	101	Corporation
TATE OF _ OUNTY OF	Minnesota Bice	} ss.	
On th	is 18th	day of July	, 2008 , before me personally came
me known, v	who, being by me duly s	worn, did depose and say; t	
the Webste	er Grading, Inc., DBA R	ud Excavating of Webste	
corporation	described in and which	avecuted the chore instance	nent; that he knows the seal of said corporation; that the seal affixed to said of the Board of Directors of said corporation, and that he signed his name
(Seal)	DEB Notary Pu	RARUD \$ blic-Minnesota \$ expires Jen 31, 2010 \$	Notary Public Allera Rud My commission expires Gan, 31, 2010
22/GEEF 11/97			

CASE 0:10-cv-04680-MJD-JJG Document 1-1 Filed 11/19/10 Page 3 of 6

HOME OFFICE CEDAR RAPIDS TOWAS CERTIFIED COPY OF POWER OF ATTORNEY

းကြေginal on tileget:Home Office of Company , See Certification)

KNOW ALL MEN BYTHESE PRESENTSK THE INFE UNITED TERE & CASUALTY COMPANY is combination duty inganized and existing under the laws of the state of lover and having repulsibilities increase rankers and individual appropriate the laws of the state of lover and having repulsibilities increase. State of lover does not the state of lover and the propriate reverse of the laws of the state of lover and the laws of the l

BALL TYPERRY STARS ON GAPTH'S SELLE OF ROBER E. CLEMARS DE BREISSY MY MOROUN JURIS DAN THE BALL TYPERRY STARS ON GAPTH'S ARMS ON MARK STARS ON GAPTH'S ARMS ON

TAROTTIDE 2008, before me pensonality came Dennis J. Richmann
no being by the fully sworn, did depose and say, that he resides in Cedar Rapids State oblows that
UNITED THE & ASUALTY COMPANY, the corporation described in and which executed the approximate
asia of said comporation, that the seat affixed to the said entrangent is, such corporate seal that it was
bely given by the Bosch of Operators of said composition and that he signed in said in the residence of the composition of the said and deed of said composition.

Applications

Applicati

Miviese(the 35th originals, end mat the said Paver of Altorney has not been revoked and a now in full (blos an testinion) whereof that retemps subscribed my name and affixed the corporate seal of the said company s. 18 TH day of 10 May.



NOTICE OF CLAIM ON PAYMENT BOND FOR PUBLIC WORK

TO: Webster Grading, Inc., d/b/a Rud Excavating of Webster, P. O. Box 85, Webster, MN 55088 and United Fire & Casualty Company, 118 Second Avenue SE, Cedar Rapids, IA 52407.

NOTICE IS HEREBY GIVEN that the undersigned Claimant has a claim against the above-named Surety for labor and materials furnished by the undersigned for the public work described as follows:

Project: Minnesota Department of Transportation, Waseca County T. H. 13 and T. H. 14, S.P. 8101-44, Waseca, MN Bond No. 54-171757.

The labor and materials were furnished under a contract or agreement with:

Webster Grading, Inc., d/b/a Rud Excavating of Webster, P. O. Box 85, Webster, MN 55088.

The nature of the labor and materials furnished is as follows:

Furnish labor and equipment for excavation, embankment, muck excavation and earth moving.

The amount of claim is: \$1,195,166.40, plus interest, costs and attorneys' fees.

The date the claimant last furnished labor and materials to this public work is the 3rd day of December, 2009.

Claimant seeks payment of the claim according to law.

Dated: March 24 2010

NYEN EXCAVATING, INC.

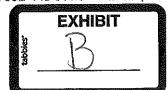
Jeholfer Nyen Its Secretary

12775 County Road 43 Chaska, MN 55318

952-448-2824

12775 COUNTY ROAD 43 • CHASKA, MINNESOTA 55318
Phone: 952-448-2824 • Fax 952-448-6632 • www.nyenexcavating.com

1568773v1





COUNTY OF CARVER

Jennifer Nyen, being duly sworn on oath states that she is the Secretary for the claimant named above and has knowledge of the claim and that the claim is correct, and no part of the claim has been paid.

Jennifer Nyen

Signed and sworn to before me on March <u>all</u>, 2010

) .

A Notary Public

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SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
© Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the eard to you. Attach this eard to the back of the mailplace, or on the front if space permits. 1. Article Addressed to: Wildter Greating, Inc. DB/A: Knel Excounting, Inc. of	A. Signature K. M. C. L.
Webster HZ80 Ragley Ave Webster, MN 55088.	3. Seyfice Type CB Certifled Mall I Registered I heared Mall I C.O.D.
	4. Restricted Delivery? (Extra Fee) Yes
2. Article Number 70	19 2820 0002 2158 65Q5
(Transfer from service label) PS Form 3811, February 2004 Domestic Re	eturn Receipt 102596-02-M-1540
SENDER: COMPLETE THIS SECTION Complete Items 1, 2, and 3. Also complete Item 4 if Restricted Delivery is degreed.	A. Signatura Agent
 Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the maliplece, or on the front if space permits. 	B. Received by (Printed Name) C. Date of Delivery M.R. 2, 6, 2010
1. Article Addressed to: Onited Five; Casualty Co	D. is delivery address different from Item 1? II Yes if YES, enter delivery address below: II No
118-2nd Ave S.E. Codov. Rapids, IA 5240	3. Service Type
•	Las anima Olivi
•	The Certified Mail Depress Mail Property Depress Mail De
9 Arthda Musellan	(Express Mail
2. Article Number 7007 (Thinkler from service label) PS Form 3811 February 2004 Demosits	The Certified Mail Depress Mail Property Depress Mail De